

Disadvantaged Business Enterprise Contract Provisions

(Part A)

Policy

It is the policy of the US. Department of Transportation and the Missouri Department of Transportation and the Owner that businesses owned by socially and economically disadvantaged individuals (DBE's) as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently, the requirements of 49 CFR Part 23, and Section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 apply to this contract.

Obligation of the Contractor to DBE's

The contractor agrees to insure that DBE's have the maximum opportunity to participate in the performance of this contract and any subcontract financed in whole or in part with Federal funds. In this regard the contractor shall take all necessary and reasonable steps to insure that DBE's have the maximum opportunity to compete for and perform contracts. The contractor shall not discriminate on the basis of race, color, age, national origin, or sex in the performance of this contract or in the award of any subsequent subcontract.

Banking Services

The contractor is encouraged to use the services of banks owned and controlled by socially and economically disadvantaged individuals.

Geographic Area for Solicitation of DBE's

The contractor shall seek DBE's in the same geographic area in which the solicitation for subcontracts and materials is made. If the contractor cannot meet the goals using DBE's from this geographic area, the contractor shall as a part of the effort to meet the goal, expand the search to a reasonably wider geographic area.

Determination of Participation Toward Meeting the DBE Goal

DBE participation shall be counted toward meeting the goal as follows:

- a. Once a firm is determined to be an eligible DBE, the total dollar value of the contract or subcontract awarded to the DBE is counted toward the goal.
- b. The contractor may count toward the DBE goal a portion of the total dollar value of a subcontract with a joint venture eligible under the DBE standards equal to the percentage of the ownership and controls of the DBE partner in the joint venture.
- c. The contractor may count toward the DBE goal, expenditures to DBE's who perform a commercially useful function in the contract. A DBE is considered to perform a commercially useful function when responsible for execution of a distinct element of the work of a contract and the carrying out of the responsibilities by actually performing, managing, and supervising the work involved.

d. The contractor may count toward the DBE goals 60 percent of its expenditures for materials and supplies required under a contract and obtained from a DBE regular dealer, and 100 percent of such expenditures to a DBE manufacturer.

(1) A regular dealer is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principle business, and in its own name, the purchase and sale of products in question.

(2) A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular business dealers within the meaning of this section (i.e., a truck hauler is a regular dealer when the firm owns, operates, and maintains or leases, operates, and maintains the distribution equipment for the delivery of the above products to the public in the usual course of business. Ad hoc performance for one contractor or select group of contractors does not qualify as a regular dealer.)

(3) A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the material, or supplies obtained by the contractor (i.e., a supplier who produces goods from raw materials or substantially alters them before resale).

e. A contractor may count toward the DBE goals the following expenditures to DBE firms that are not regular dealers or manufacturers:

(1) The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, or trucker is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by the Missouri Department of Transportation to be reasonable as compared with fees customarily allowed for similar services.

Goals for the Amount of Work to be Awarded to DBE's

The following goal has been established for this contract. The dollar value of work, supplies, and services will be based on the amount anticipated to be paid to DBE's. for firms owned and controlled by socially and economically disadvantaged individuals (DBE's) the goal for the amount of work to be awarded is % of the total contract price.

*See Notice to Bidders for percentage.

Failure to meet the contract goal or to furnish documentation acceptable to the Owner of efforts to meet this goal may be caused for rejection of the bid.

Replacement of DBE Subcontractors

The contractor shall make good faith efforts to replace a DBE subcontractor who is unable to perform satisfactorily with another DBE subcontractor. Replacement firms must be approved by the Owner.

Documentation of Good Faith Efforts to Meet the DBE Contract Goal

Good faith efforts to meet the DBE goal may include such items as, but not limited to, the following:

- (1) Attended a pre-bid meeting, if any, scheduled by the Owner to inform DBE's of contracting and subcontracting opportunities;
- (2) Advertised in general circulation trade association and socially and economically disadvantaged business directed media concerning the subcontracting opportunities;
- (3) Provided written notice to a reasonable number of specific DBE's that their interest in the contract is solicited, in sufficient time to allow the DBE's to participate effectively;
- (4) Followed-up in initial solicitations of interest by contacting DBE's to determine with certainty whether the DBE's were interested.
- (5) Selected portions of the work to be performed by DBE's in order to increase the likelihood of meeting the DBE goal (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);
- (6) Provide interested DBE's adequate information about plans, specifications, and requirements of the contract.
- (7) Negotiated in good faith with interested DBE's, not rejecting DBE's as unqualified without sound reasons based on a thorough investigation of their capabilities;
- (8) Made efforts to assist interested DBE's obtaining bonding, lines of credit or insurance required by the Owner or by the bidder; and
- (9) Made effective use of the services of available disadvantaged business organizations, minority contractors' groups; local, state, and Federal disadvantaged business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBE's.

The undersigned certifies that the following steps have been taken to obtain DBE participation:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.

Speciality Item

Subcontract work awarded to DBE subcontractors not to exceed the amount specified in the proposal or the amount designated in the contract by the contractor whichever is less and not to exceed a total of 20% of the contract will be considered speciality items under the provisions of Sec. 108.1.1.

Verification of DBE Participation

Prior to release of retained percentage, the contractor shall file a list with the Owner showing the DBE's used and the work performed. The list shall show the actual dollar amount paid to each DBE that is applicable to the percentage participation established in the contract. Failure on the part of the contractor to achieve the DBE participation specified in the contract may result in sanctions being imposed on the Owner for noncompliance with Section 49 CFR, Part 23, and Section 106(c) of the Surface Transportation and Uniform Relocation Assistance Act of 1987. If the total DBE participation is less than the contract goal stated by the Owner, the Owner may sustain damages, the exact extent of which would be difficult or impossible to ascertain and therefore in order to liquidate such damages, the monetary difference between the amount of the goal stated by the Owner and the amount actually paid to the DBE's for performing a commercially useful function will be deducted from the contractor's payments as liquidated damages. If the contract is awarded either less than the contract goal stated by the Owner, that amount shall become the contract goal and shall be used to determine liquidated damages. No such deduction will be made when, for reasons beyond control of the contractor, the stated DBE participation is not met.

BIDDING PROCEDURE

The bidder shall complete the information required under Part A and submit with the bid proposal. Failure to submit the completed Part A with the bid proposal may be cause for rejection of the bid. Part B shall be completed and submitted with the bid proposal or delivered by the low and second bidder within three working days after the letting date. No extension of time will be allowed for any reason.

Failure to deliver the completed and executed Part B showing DBE participation of not less than that specified by the bidder in Part A by 5:00 p.m. on the third working day after the letting will be cause for rejection of the low bid and the proposed guaranty will become the property of the Owner. The proposal guaranty of the second low bidder will be retained under the same conditions until the Owner has determined that the award will not be made to the second low bidder.

If Part B is not submitted with the bid, it shall be delivered directly to the Engineer at the following address:

(Insert Address Here)

PARTICIPATION BY DBE'S (MUST COMPLETE AND SUBMIT WITH PROPOSAL)

The bidder agrees to utilize DBE's as follows:

DBE PARTICIPATION _____% OF TOTAL CONTRACT

(Company)

by _____

Date: _____

(Title)

DISADVANTAGED BUSINESS ENTERPRISE CONTRACT PROVISIONS
(PART B)

IDENTIFICATIONS OF PARTICIPATING DBE'S

The undersigned submits the following list of DBE's to be used in accomplishing the work of this contract. The work supplies or service, applicable value and percent of total contract each DBE is to perform furnish is as follows:

<u>DBE Contractor or Supplier (Name and Address)</u>	<u>Description of work, Supplies or Services</u>	<u>\$ Value of Work, Supplies or Services</u>	<u>% of Dollar Value Applicable to DBE Goal</u>	<u>Amount Applicable to DBE Goal</u>	<u>% of Total Contract</u>
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- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

TOTAL DBE PARTICIPATION

\$ %

(Company)

Date: _____

By

(Signature) (Title)

**NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO
ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE
ORDER 11246)**

December 1980

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetable for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

3. Construction contractors which are participating in an approved Hometown Plan (see 41 CFR 60-4.5) are required to comply with the goals of the Hometown Plan with regard to construction work they perform in the area covered by the Hometown Plan. With regard to all their other covered construction work, such contractors are required to comply with the following goals:

Goals for Female Participation in Each Trade

AREA COVERED

Goals for women apply nationwide.

GOALS AND TIMETABLES

Timetable	Goals (percent)
From Apr. 1, 1978 until Mar. 31, 1979	3.1
From Apr. 1, 1979 until Mar. 31, 1980	5.1
From Apr. 1, 1980 until Mar. 31, 1981	6.9

Goals For Minority Participation For Each Trade

County	Goal (Percent)	County	Goal (Percent)
Adair	4.0	Carroll	10.0
Andrew	3.2	Carter	11.4
Atchison	10.0	Cass	12.7
Audrain	4.0	Cedar	2.3
Barry	2.3	Chariton	4.0
Barton	2.3	Christian	2.0
Bates	10.0	Clark	3.4
Benton	10.0	Clay	12.7
Bollinger	11.4	Clinton	10.0
Boone	6.3	Cole	4.0
Buchanan	3.2	Cooper	4.0
Butler	11.4	Crawford	11.4
Caldwell	10.0	Dade	2.3
Callaway	4.0	Dallas	2.3

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION (Cont'd)

Camden	4.0	Daviess	10.0
Cape Girardeau	11.4	DeKalb	10.0
Dent	11.4	Nodaway	10.0
Douglas	2.3	Oregon	2.3
Dunklin	26.5	Osage	4.0
Franklin	14.7	Ozark	2.3
Gasconade	11.4	Pemiscot	26.5
Gentry	10.0	Perry	11.4
Greene	2.0	Pettis	10.0
Grundy	10.0	Phelps	11.4
Harrison	10.0	Pike	3.1
Henry	10.0	Platte	12.7
Hickory	2.3	Polk	2.3
Holt	10.0	Pulaski	2.3
Howard	4.0	Putnam	4.0
Howell	2.3	Ralls	3.1
Iron	11.4	Randolph	4.0
Jackson	12.7	Ray	12.7
Jasper	2.3	Reynolds	11.4
Jefferson	14.7	Ripley	11.4
Johnson	10.0	St. Charles	14.7
Knox	4.0	St. Clair	2.3
Laclede	2.3	St. Francois	11.4
Lafayette	10.0	Ste. Genevieve	11.4
Lawrence	2.3	St. Louis City	14.7
Lewis	3.1	St. Louis County	14.7
Lincoln	11.4	Saline	10.0
Linn	4.0	Schuyler	4.0
Livingston	10.0	Scotland	4.0
McDonald	2.3	Scott	11.4
Macon	4.0	Shannon	2.3
Madison	11.4	Shelby	4.0
Maries	11.4	Stoddard	11.4
Marion	3.1	Stone	2.3
Mercer	10.0	Sullivan	4.0
Miller	4.0	Taney	2.3
Mississippi	11.4	Vernon	2.3
Moniteau	4.0	Warren	11.4
Monroe	4.0	Washington	11.4
Montgomery	11.4	Wayne	11.4
Morgan	4.0	Webster	2.3
New Madrid	26.5	Worth	10.0
Newton	2.3	Wright	2.3

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply to the goals established for such

geographical area where the work is actually performed. With regard to this second area, the contractor also is subject to the goals for both its federally involved and nonfederally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority, or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measure against the total work hours performed.

4. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.

5. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is the county, route, and limits described in the proposal for the work.

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION
CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246) July 1986**

1. As used in these specifications:
 - a. "Covered Area" means the geographical area described in the solicitation which this contract resulted:
 - b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. "Employer Identification Number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941;
 - d. "Minority" includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North American and maintaining identifiable tribal affiliations through membership and participation of community identification).
2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.
4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has

employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are not published periodically in the Federal Register in notice form, and such notices may be obtained from any Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and

trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources complied under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations: by including it in any policy manual and collective bargaining agreement by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least one a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.

k. Validate all tests and other selection requirement where there is an obligation to do so under 41 CFR part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor union, contractor community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g. mechanic, apprentice,

trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public works Employment Act of 1977 and the Community Development Block Grant Program).

SUPPLEMENTAL REPORTING REQUIREMENTS

- A. The contractor will keep such records as are necessary to determine compliance with the contractor's equal employment opportunity obligations. The records kept by the contractor will be designed to indicate the number of minority and non-minority group members and women employed in each work classification on the project.
- B. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State Highway agency and the Federal Highway Administration.
- C. The contractor and each covered subcontractor will submit to the State Highway agency, for the month of July, for the duration of the project, a report (Form PR-1391) "Federal-Aid Highway Construction Contractors Annual EEO Report," indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work.

July 1990

NONDISCRIMINATION IN EMPLOYMENT

The following provisions are added by the State to the Required Contract Provisions of Federal-Aid Contracts.

The contractor is advised that the exemptions referred to in the Required Contract Provisions, Federal-Aid Contracts under Section II, Nondiscrimination, Paragraph 3g, with respect to contracts and subcontracts, are substantial and are to be found in Chapter 60, Office of Federal Contract Compliance, Equal Employment Opportunity, Department of Labor (33 Federal Register 7804-7812, May 28, 1968, effective July 1, 1968, Chapter 60, Title 41, Code of Federal Regulations), by which contracts and subcontracts of \$10,000 or less and certain contracts and subcontracts for indefinite quantities are exempt.

The two pertinent exemption clauses are as follows:

60-1.5 Exemptions.

(a) General-(1) Transactions of \$10,000 or under. Contracts and subcontracts not exceeding \$10,000, other than Government bills of lading, and other than contracts and subcontracts with depositories of Federal Funds in any amount and with financial institutions which are issuing and paying agents for U.S. savings bonds and savings notes, are exempt from the requirements of the equal opportunity clause. In determining the applicability of this exemption to any federally assisted construction contract, or subcontract thereunder, the amount of such contract or subcontract rather than the amount of the Federal financial assistance shall govern. No agency, contractor, or subcontractor shall procure supplies or services in a manner so as to avoid applicability of the equal opportunity clause: Provided, that where a contractor has contracts or subcontracts with the Government in any 12-month period which have an aggregate total value (or can reasonably be expected to have an aggregate total value) exceeding \$10,000, the \$10,000 or under exemption does not apply, and the contracts are subject to the order and the regulations issued pursuant thereto regardless of whether any single contract exceeds \$10,000.

(2) Contracts and subcontracts for indefinite quantities. With respect to contracts and subcontracts for indefinite quantities (including, but not limited to, open end contracts, requirement-type contracts, Federal Supply Schedule contracts, "call-type" contracts, and purchase notice agreements), the equal opportunity clause shall be included unless the purchaser has reason to believe that the amount to be ordered in any year under such contract will not exceed \$10,000. The applicability of the equal opportunity clause shall be determined by the purchaser at the time of award for the first year, and annually thereafter for succeeding years, if any. Notwithstanding the above, the equal opportunity clause shall be applied to such contract whenever the amount of a single order exceeds \$10,000. Once the equal opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration, regardless of the amounts ordered, or reasonably expected to be ordered in any year.

OPERATING POLICY STATEMENT

The contractor shall accept as his operating policy the following statement, or one of equal coverage, which is designed to further the provision of equal employment opportunity to all person without regard to their race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."